

AMENDED IN ASSEMBLY MARCH 24, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 853

Introduced by Assembly Member Roger Hernández

February 26, 2015

An act to ~~amend Section 1002.3 of~~ *add Section 764 to* the Public Utilities Code, relating to ~~electricity~~ *energy*.

LEGISLATIVE COUNSEL'S DIGEST

AB 853, as amended, Roger Hernández. Electrical ~~transmission~~ *certificates of public convenience and necessity*; *and gas corporations*; *security of plant and facilities*.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations *and gas corporations*, as defined. ~~The Public Utilities Act prohibits any electrical corporation from beginning the construction of, among other things, a line, plant, or system, or of any extension thereof, without having first obtained from the commission a certificate that the present or future public convenience and necessity require or will require that construction (certificate of public convenience and necessity).~~ Existing law requires the commission, in considering an application for a certificate of public convenience and necessity for an electric transmission facility, to consider cost-effective alternatives to transmission facilities that meet the need for an efficient, reliable, and affordable supply of electricity; including demand-side alternatives such as targeted energy efficiency; ~~ultraclean distributed generation, as defined, and other demand reduction resources.~~ *If the commission finds after a hearing that the rules, practices, equipment, appliances, facilities, or service of any public utility, or of the methods of manufacture, distribution, transmission,*

storage, or supply employed by the public utility, are unjust, unreasonable, unsafe, improper, inadequate, or insufficient, the Public Utilities Act requires that the commission determine and, by order or rule, fix the rules, practices, equipment, appliances, facilities, service, or methods to be observed, furnished, constructed, enforced, or employed. The Public Utilities Act requires the commission to prescribe rules for the performance of any service or the furnishing of any commodity of the character furnished or supplied by any public utility and, on proper demand and tender of rates, require the public utility to furnish the commodity or render the service within the time and upon the conditions provided in the rules adopted by the commission.

This bill would, to the extent feasible, require an electrical corporation or gas corporation to utilize direct employees, as defined, for any work associated with the design, engineering, and operation of its nuclear, electrical, and gas infrastructure, including all computer and information technology systems, unless the utility files a Tier 3 advice letter with the commission that demonstrates that the work can be performed safely and securely, and without jeopardizing the security of its nuclear, electrical, and gas infrastructure by persons that are not direct employees. The bill would require the commission to open a proceeding, or expand the scope of an existing proceeding, to evaluate the advice letter and to hold not less than one duly noticed public hearing for the proceeding. The bill would require the commission to issue a written decision determining whether the electrical corporation or gas corporation may utilize persons that are not direct employees for the described work.

Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the commission is a crime.

Because the provisions of this bill would be a part of the act and because a violation of an order or decision of the commission implementing its requirements would be a crime, the bill would impose a state-mandated local program by creating a new crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~This bill would include demand response as being amongst the demand-side alternatives that the commission is to consider.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 764 is added to the Public Utilities Code,
2 to read:
3 764. (a) The Legislature finds and declares all of the following:
4 (1) Protecting the security of nuclear, electrical, and natural
5 gas utility systems is a paramount state interest.
6 (2) Protecting the privacy of ratepayers' personal information,
7 including usage information, is a paramount state interest.
8 (3) Recent intrusions into major corporate computer systems,
9 including Sony and Anthem Blue Cross, and the theft of information
10 from those systems have demonstrated the vulnerability of those
11 systems.
12 (4) The computer systems of California's electrical corporations
13 and gas corporations have information about the design,
14 engineering, and operation of the nuclear, electrical, and natural
15 gas utility infrastructure, as well as personal information about
16 California ratepayers. This information could be used to
17 compromise the security of California's utility infrastructure and
18 the privacy of California's ratepayers.
19 (5) Widespread deployment of smart meters, smart grid
20 equipment, and microgrids increases the importance of protecting
21 the computer systems of electrical corporations and gas
22 corporations.
23 (6) The part of any computer system that is most vulnerable to
24 being compromised is the personnel who operate that system.
25 (7) Electrical corporations and gas corporations should make
26 every reasonable effort to protect their computer systems from
27 unauthorized intrusions.
28 (8) To protect the security of electrical and natural gas utility
29 computer systems, including nuclear infrastructure, the information
30 technology personnel who operate those systems should be direct
31 employees of the electrical corporation or gas corporation.
32 (9) To protect the security of nuclear, electrical, and gas utility
33 infrastructure, the design, engineering, and operation of that

1 *infrastructure should, to the extent feasible, be performed by direct*
2 *employees of the electrical corporation or gas corporation.*

3 *(b) For purposes of this section, “direct employees” for*
4 *construction or maintenance work include the employees of a*
5 *contractor or subcontractor licensed in California and working*
6 *under the direct supervision of the electrical corporation or gas*
7 *corporation.*

8 *(c) To the extent feasible, an electrical corporation or gas*
9 *corporation shall utilize direct employees for any work associated*
10 *with the design, engineering, and operation of its nuclear,*
11 *electrical, and gas infrastructure, including all computer and*
12 *information technology systems, unless the utility complies with*
13 *the requirements of this section and obtains the approval of the*
14 *commission pursuant to this section.*

15 *(d) Before utilizing persons that are not direct employees for*
16 *work associated with the design, engineering, and operation of its*
17 *nuclear, electrical, and gas infrastructure, including all computer*
18 *and information technology systems, an electrical corporation or*
19 *gas corporation shall file a Tier 3 advice letter with the commission*
20 *that demonstrates that the work can be performed safely and*
21 *securely, and without jeopardizing the security of its nuclear,*
22 *electrical, and gas infrastructure.*

23 *(e) The commission shall open a proceeding, or expand the*
24 *scope of an existing proceeding, to evaluate the advice letter. The*
25 *commission shall hold not less than one duly noticed public hearing*
26 *for the proceeding. The commission shall issue a written decision*
27 *determining whether the electrical corporation or gas corporation*
28 *may utilize persons that are not direct employees for the described*
29 *work.*

30 *SEC. 2. No reimbursement is required by this act pursuant to*
31 *Section 6 of Article XIII B of the California Constitution because*
32 *the only costs that may be incurred by a local agency or school*
33 *district will be incurred because this act creates a new crime or*
34 *infraction, eliminates a crime or infraction, or changes the penalty*
35 *for a crime or infraction, within the meaning of Section 17556 of*
36 *the Government Code, or changes the definition of a crime within*
37 *the meaning of Section 6 of Article XIII B of the California*
38 *Constitution.*

39 ~~SECTION 1. Section 1002.3 of the Public Utilities Code is~~
40 ~~amended to read:~~

1 ~~1002.3. In considering an application for a certificate for an~~
2 ~~electric transmission facility pursuant to Section 1001, the~~
3 ~~commission shall consider cost-effective alternatives to~~
4 ~~transmission facilities that meet the need for an efficient, reliable,~~
5 ~~and affordable supply of electricity, including, but not limited to,~~
6 ~~demand-side alternatives such as targeted energy efficiency,~~
7 ~~demand response, ultraclean distributed generation, as defined in~~
8 ~~Section 353.2, and other demand reduction resources.~~

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